



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2021-0554; FRL-9187-01-R4]

Air Plan Approval; North Carolina; Miscellaneous Emission Control Standards Rule

Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve changes to the North Carolina State Implementation Plan (SIP), submitted by the State of North Carolina through the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ), through a letter dated April 13, 2021. This SIP revision includes changes to a subset of NCDEQ's regulations regarding emission control standards. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2021-0554 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Febres can be reached via electronic mail at febres-martinez.andres@epa.gov or via telephone at (404) 562-8966.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Proposing?

EPA is proposing to approve certain changes to North Carolina's SIP that were provided to EPA through NCDEQ via a letter dated April 13, 2021, and related to North Carolina's 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .0500, *Emission Control Standards*.¹ Specifically, EPA is proposing approval of changes to 15A NCAC 02D Sections .0516, *Sulfur Dioxide Emissions from Combustion Sources*; .0517, *Emissions from Plants Producing Sulfuric Acid*; .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; and .0533, *Stack Height*.^{2,3} The changes to these sections, as well as EPA's analysis of the changes, is discussed in the following sections.

II. EPA's Analysis of the State's Submittal

A. Rule 15A NCAC 02D .0516

Rule 02D .0516, *Sulfur Dioxide Emissions from Combustion Sources*, includes minor grammatical edits to paragraph .0516(a) by removing the words "that is", as well as a rewording of paragraph .0516(b) for clarity. In addition, North Carolina removes a reference to Rules 02D

¹ EPA notes that the April 13, 2021, submittal was received by EPA on April 14, 2021.

² EPA received several revisions to the North Carolina SIP through the same April 13, 2021, cover letter. This proposed rulemaking only addresses the revisions identified within this notice. EPA may act on the remaining revisions, including certain 02D Section .0500 rules not considered in this proposed action, in separate rulemakings.

³ On February 22, 2022, and July 6, 2022, North Carolina submitted letters to EPA withdrawing the changes to Rule 15A NCAC 02D .0532 and .0527, respectively, from EPA's consideration. For this reason, EPA will not act on these changes to Rule .0532 or .0527. Both letters can be found in the docket for this proposed action.

.1205 and .1211 from paragraph .0516(b), which originally excluded large municipal waste combustors and other solid waste incineration units, respectively, from complying with the requirements of rule .0516. These two references were removed because the two rules were State-only rules that have since been repealed, effective July 1, 2018.⁴

EPA has preliminarily determined that these changes to the SIP will not interfere with attainment and maintenance of the national ambient air quality standards (NAAQS) or any other applicable requirement of the Act. Therefore, EPA is proposing to approve the aforementioned changes to the North Carolina SIP.

B. Rule 15A NCAC 02D .0517

Rule 0517, *Emissions from Plants Producing Sulfuric Acid*, contains very minor typographical edits, such as substituting parentheses for commas, and edits for clarity, such as adding an “and” between two requirements that both must be met.

EPA has preliminarily determined that these changes to the SIP will not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act. Therefore, EPA is proposing to approve the aforementioned changes into the North Carolina SIP.

C. Rule 15A NCAC 02D .0519

Rule .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*, includes, among other minor edits, a change in paragraph .0519(a) to address a typographical error. Specifically, North Carolina is correcting the previous reference to “sulfuric” acid, to instead reference to “nitric” acid. A reference to sulfuric acid in paragraph .0519(a) did not make sense in the context of this rule, as Rule .0519 is specific to emissions from nitrogen sources (i.e. nitrogen dioxide and nitrogen oxide). With sulfuric acid, calculations using the equation in .0519(c) would not function for the purpose of comparing boiler emissions to the nitrogen dioxide emissions limit found in .0519(a).

⁴ See NCDAQ’s website at <https://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules/control-emissions-from-incinerators>.

Additionally, an incorrect reference to paragraph .0519(a), in paragraph (d) of this rule, was changed to instead reference paragraph .0519(b). This is a typographical correction because the provisions in paragraph .0519(d) are regarding nitrogen oxide emissions from boilers, which would fall under paragraph (b) of this rule, whereas paragraph .0519(a) refers to nitrogen dioxide emissions from nitric acid manufacturing plants.

Paragraph .0519(c) was revised to clarify the units that are subject to the emissions limit calculation of this paragraph. The changes clarify that .0519(c) applies to boilers “burning coal, oil, or gas in combination” which would mean any combination of these three fuel types.

The remaining changes to Rule .0519 are clarifying in nature. For example, an “or” is added to .0519(b)(1) to clarify that there are two separate emissions standards that apply to different types of boilers; an equation is reformatted in .0519(c); and .0519(d) is rephrased for clarity, including identification of the cross-referenced rules.

EPA has preliminarily determined that these changes to the SIP will not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act. Therefore, EPA is proposing to approve the aforementioned changes to the North Carolina SIP.

D. Rule 15A NCAC 02D .0533

Rule 0533, *Stack Height*, includes only minor grammatical and formatting changes that do not alter the meaning of the provisions. Specifically, Rule .0533 reorders the definitions for “Stack”, “Good engineering practice (GEP),” “Nearby,” and “Emission limitation” to reformat the rule alphabetically. In addition, minor changes are made throughout Rule .0533 to update citations; make minor grammatical corrections that do not alter the meaning of the provisions (e.g., removing “actually” from .0533(a)(5)(B)); and add clarity (e.g., adding an “and” between two definitions that apply to different situations in .0533(a)(6)(A) and adding the word “shall” in .0533(a)).

EPA has preliminarily determined that these changes to the SIP will not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act.

Therefore, EPA is proposing to approve the aforementioned changes to the North Carolina SIP.

III. Incorporation by Reference

In this document, EPA is proposing to include, in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as described in Section I and II of this preamble, EPA is proposing to incorporate by reference 15A NCAC Subchapter 02D, Section .0516, *Sulfur Dioxide Emissions from Combustion Sources*; Section .0517, *Emissions from Plants Producing Sulfuric Acid*; Section .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; and Section .0533, *Stack Height*, all state effective on November 1, 2020. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the April 13, 2021, SIP revision to incorporate various changes to a subset of North Carolina’s emission control standards provisions into the SIP. Specifically, EPA is proposing to approve changes to 15A NCAC 02D Sections .0516, *Sulfur Dioxide Emissions from Combustion Sources*; .0517, *Emissions from Plants Producing Sulfuric Acid*; .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; and .0533, *Stack Height*. EPA is proposing to approve these changes for the reasons discussed above.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal

governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 1, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

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